



Confederated Tribes of Warm Springs, Oregon
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September 30, 2019

Mr. Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division, Region 10
United States Environmental Protection Agency
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3188

Re: Administrative Compliance Order on Consent, SDWA-102019-0078

Dear Mr. Kowalski:

The United States Environmental Protection Agency ("EPA") and the Confederated Tribes of the Warm Springs Reservation of Oregon ("CTWS" or "Tribe") are parties to the Administrative Compliance Order on Consent, SDWA-102019-0078, dated as of June 5, 2019 ("Order"). The Order imposes a number of obligations on the Tribe to correct significant deficiencies in the Warm Springs Public Water System ("System").

In particular, Section 4.1 contains nineteen (19) different compliance obligations. We are pleased that nine (9) of these obligations have been successfully accomplished (§4.1(a), (e), (f), (h), (m), (o), (p), (q), (s)). The remaining ten (10) compliance obligations have a required completion date of October 1, 2019 (§4.1 (b), (c), (d), (g), (i), (k), (l), (n), (r) and (t))¹ "remaining compliance items"). We are pleased to report that the Tribe is administering Department of Housing and Urban Development ("HUD") Imminent Threat Grant and Bureau of Indian Affairs ("BIA") Grant funds to augment Tribal funds for completion of compliance items.

As you are aware, starting in late May, the System experienced a series of system failures that resulted in the need for the Tribe to issue boil water notices, implement an alternative water plan and engage in mainline, pressure valve and other significant repairs and replacements of the System to restore water delivery service. Our staff has been working closely with EPA Enforcement staff in communicating these needed repairs and progress in completing them. We are pleased to report that the system was stabilized and the boil water notice was lifted on August 14, 2019.

¹ The EPA has also issued an Emergency Administrative Order (SDWA-10-2019-0077) with respect to the System dated May 23, 2019 (but effective as to compliance dates on July 22, 2019) ("Emergency Order"). There is one area of overlap between this Emergency Order and the Order. Section 29 of the Emergency Order corresponds with Section 4.1(q) of the Order (upgrade river intake air scour system). The Tribe asks that the requested modification to the Order control in regards to the compliance deadline for this item in both the Emergency Order and Order.



Because of the Tribal staff and monetary resources needed to respond to these System emergency issues, the Tribe has been unable to devote resources originally planned to implement the remaining compliance items. Consequently, the remaining compliance items cannot be completed by the October 1, 2019 Order date.

The Tribe has federal funding secured to complete the river intake scour system replacement (item 4.1(q)) but, the Tribe does not otherwise have specific funds targeted for the rest of the remaining compliance items. However, we believe that the remaining compliance items can be accomplished in FY2020 with Tribal budgeted dollars and additional grant dollars. The estimated cost of the unfunded remaining compliance items is being determined and should be available by late October. On September 24, 2019, the Tribe hosted a summit for federal, state, and private agencies and funders to evaluate the Tribe's funding priorities and identify possible funding sources for a variety of tribal infrastructure needs, including the System and compliance items. This summit is part of an ongoing collaboration that commenced in response to the Tribe's water emergency and the Tribe is pleased that these communications are ongoing and are productive in terms of funding opportunities for the Tribe. Accordingly, the Tribe feels confident that the resources needed to complete the remaining compliance items are within the capacity of the Tribe in FY2020.

Pursuant to Section 5.8 of the Order, the Tribe is requesting that the EPA and Tribe modify the Order to extend the completion date of the remaining compliance items. In order to complete the remaining compliance items the Tribe needs to be able to do the following:

- Estimate funding costs for remaining compliance items that are currently unfunded;
- Identify specific funding sources for the remaining compliance items;
- Engage qualified contractors to complete the outstanding compliance items.

We expect to communicate estimated costs for remaining compliance items that are currently unfunded at the regularly scheduled weekly update with EPA compliance staff during the week of October 28. Once that is known, the Tribe will identify funding sources for the remaining compliance items, timelines to secure any additional funding for the same, and timelines to engage qualified contractors to complete the work by June 30, 2020. Once contracts are in place, they will contain specific and realistic completion dates.

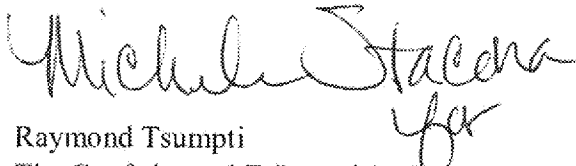
In closing, the Tribe is pleased to have made so much progress this summer in alleviating emergency conditions that created an imminent and acute health crisis for our community. We are further pleased that the Tribe's federal trustees, including the EPA, have engaged with the Tribe to find funding and other assistance to address some of the significant infrastructure needs in our community. The Tribe's staff is working incredibly hard to address these issues and requires more assistance to address the needs in our community. Accordingly, we appreciate the

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constructive relationship that the EPA and the Tribe have developed in the implementation of the Order and trust that you will recognize the need for the requested modification.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Stacena" with a large "Y" or "for" written below it.

Raymond Tsumpti

The Confederated Tribes of the Warm Springs Reservation of Oregon
Tribal Council Chairman

RT/ehg

cc: Adam Baron
Clarke Thurmon

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